

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Roseville for authority to make Roseville's stationary horn warning systems at two public crossings over the Union Pacific Railroad Company's main line at Yosemite Street (001A-106.9) and at Tiger Way (001A-107.20 in the City of Roseville permanent installations instead of pilot projects as currently defined.

Application 04-04-017
(Filed April 16, 2004)

O P I N I O N**Summary**

This decision grants an extension of the previously approved pilot project of the Stationary Horn Warning System, also known as the Automated Horn System (AHS), at Yosemite Street, California Public Utilities Commission (Commission) Crossing No. 001A-106.90, and Tiger Way, Commission Crossing No. 001A-107.20, in the City of Roseville (City) over the tracks of the Union Pacific Railroad (UPRR). Authority is granted until such time as the Federal Railroad Administration's (FRA) final rule, expected December 18, 2004, regarding the sounding of locomotive horns at crossings is published. At such time the City of Roseville must comply with the federal standard, or cease use of the AHS.

Discussion

On December 17, 2002, the Commission approved a pilot project for the AHS system in Roseville by Decision 02-12-041, in Application 00-09-063. Pre-installation monitoring began on May 23, 2003 and continued for three months. The full AHS was activated on August 19, 2003, beginning one year of post-installation monitoring. In January of 2004, the City submitted a preliminary evaluation of the AHS system based on the monitoring to date, and found the system "...to be meeting the needs of the City by improving the quality of life experienced by its citizens without compromising safety." On March 29, 2004, the Commission submitted its AHS report to the California Legislature, pursuant to Pub. Util. Code § 1202(d)(2)(B).¹ The AHS report did not make a final decision as to the safety of the two pilot projects since testing was still underway.

On April 16, 2004, the City filed an application to the Commission for authority to make the AHS system a permanent installation at the two test locations in Roseville. Notice of the Application was published in the Commission's Daily Calendar (CDC) on April 20, 2004. On May 20, 2004, the UPRR filed a response to the Application. In the response the UPRR states "...the Legislature has not authorized the Commission to approve the AHS as a permanent installation in lieu of requiring the trains to sound the whistle at all

¹ On August 29, 2000 SB 1491 amended Cal. Pub. Util. Code § 1202 authorizing the Commission to oversee pilot projects to test the utility and safety of stationary audible warning devices thereby releasing the railroads from the requirement to sound the locomotive horn at crossings where such devices are installed. AB 1249 and SB 62 were subsequently enacted on September 29, and October 7, 2001, respectively, to further amend Cal. Pub. Util. Code § 1202 with language addressing the practical field application of the AHS. The provisions for these pilot projects within Cal. Pub. Util. Code § 1202, sunsetted on January 1, 2003.

crossings,” and that once the new federal guidelines become effective they will govern the use of the AHS.

The Commission Rail Crossing Engineering Section and Railroad Operations staffs continue to work closely with the City and other interested parties through all phases of the pilot project. Data collected to date indicates that the system is functioning as intended resulting in a reduction of horn noise in the surrounding community while maintaining an adequate level of safety at the crossings. The pilot project is scheduled to conclude on August 19, 2004, one year following commencement of operations. The City has requested permanent installation authority so that it may maintain AHS operations from the August 19, 2004 date to the date when the federal regulation is targeted to begin, December 18, 2004. The City contends that deactivating the AHS and resuming the sounding of locomotive horns for this interim period would lead to motorist and railroad personnel confusion. Commission staff does not dispute the City's contention but argues that the AHS installation should not be made permanent until the monitoring of the pilot project is concluded on August 19, 2004, and the results demonstrate adequate levels of safety. Therefore, Commission staff recommends that if the results of the pilot project demonstrate that the AHS installation provides adequate levels of safety then the Commission should approve its continued operation until the federal rule applies as expected on December 18, 2004. At that time the City will have to meet the terms of the federal rule to continue operation of the AHS installation. The California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereafter "CEQA") applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental

decision-makers and the public about the potential significant environmental effects of the proposed activities. (CEQA Guideline Section 15002.)

This proposed project involves the permanent installation of a wayside horn. Section 15301(f) of the CEQA Guidelines provides a categorical exemption from CEQA review, for the addition of safety or health protection devices used during construction or in conjunction with existing structures and facilities. In addition, the Commission Rule of Practice and Procedure 17.1(h)(A)(5) provides a CEQA exemption for alterations in railroad crossing protection, and Rule 17.1(h)(A)(6) provides a CEQA exemption for crossing alterations described in Guideline 15301(c) and (f). Based on these exemptions we find that installation of the wayside horn does not require a CEQA review.

In Resolution ALJ 176-3132 dated April 22, 2004, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176 -3132.

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the CDC on April 20, 2004. No protests have been filed.
2. The UPRR filed a response to the Application on May 20, 2004.

3. The City requests authority to make permanent the installation of the AHS at Yosemite Street (Crossing No. 001A-106.90), and Tiger Way (Crossing No. 001A-107.20).
4. The Commission is a responsible agency for this project under the CEQA.
5. This project is categorically exempt from the requirements of CEQA.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R**IT IS ORDERED** that:

1. The City of Roseville (City) is authorized to extend the pilot project of the stationary horn warning system at two public crossings over the Union Pacific Railroad Company's main line at Yosemite Street (Crossing No. 001A-106.90) and at Tiger Way (Crossing No. 001A-107.20) in the City of Roseville.
2. The City shall submit the final report on the effectiveness of the system to the Rail Crossing Engineering Section of the Consumer Protection and Safety Division no later than October 31, 2004.
3. The Commission staff shall review the City's final report and, time permitting prior to the effective date of the Federal Railroad Administration's (FRA) regulations, advise the Commission on whether the City's Automated Horn System (AHS) installation provides adequate levels of safety and whether those operations should continue.
4. Again, if time permits prior to the effective date of the FRA's regulations, the Commission may issue a decision allowing continued operation of the City's AHS installation based on the City's and staff's recommendations.

5. This authorization shall expire when the FRA Final Rule on the Use of Locomotive Horns at Highway-Rail Crossings becomes effective. The City may continue to operate its AHS installation under the Commission's previous authorization in Decision (D.) 02-12-041 in Application 00-09-063, until that authorization is revoked or modified but, in no event, shall the City continue operations of the AHS installation after the federal rule becomes effective unless the AHS installation complies with the applicable federal regulations.

6. This application is granted as set forth above.

7. Application 04-04-017 is closed.

This order is effective today.

Dated _____, at San Francisco, California.